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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

Case No:

FERNANDO GASTELUM,

Plaintiff,

vs.

RR HOTELS PHOENIX LLC,

Defendant.

**VERIFIED COMPLAINT**

- 1. Americans with Disabilities Act**
- 2. Negligence**
- 3. Negligent Misrepresentation**
- 4. Failure to Disclose**
- 5. Fraud / Consumer Fraud**

**JURY TRIAL REQUESTED**

**INTRODUCTION**

1. Plaintiff brings this action pursuant to the Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.* and corresponding regulations, 28 CFR Part 36 and Department of Justice Standards for Accessible Design (“ADA”).
2. Plaintiff’s left leg is amputated below the knee. Plaintiff moves with the aid of a wheelchair or a prosthetic leg. Plaintiff suffers from a disability as this term is defined in 42 U.S.C. 12102 and 28 CFR §36.105 (c)(1)(i) which includes, inter alia, “walking, standing, sitting, reaching, lifting [and] bending” and other

activities. A partial missing limb “substantially limit[s] musculoskeletal function” as a matter of law. 28 CFR § 36.105 (d)(2)(iii)(D).

3. Plaintiff is constantly and relentlessly segregated and discriminated against, excluded, denied equal services, or otherwise treated differently than other individuals because of his disability, and has been denied the opportunity to participate in or benefit from services, facilities and opportunities available people without disabilities.

4. Plaintiff incorporates herein Congressional Findings and Purpose set forth in 42 U.S.C. §12-101 and 28 CFR §36.101.

5. Plaintiff is being subjected to discrimination on the basis of disability in violation of Subchapter III of the Americans with Disabilities Act or has reasonable ground to believe that that he is about to be subjected to discrimination in violation of 42 U.S.C. §12183.

6. Plaintiff alleges that he has actual notice that Defendant has failed to comply with Subchapter III of the ADA, 28 CFR 36 and the 2010 Standards of Accessibility Design (“2010 Standards”) as more fully alleged below.

7. Plaintiff alleges that he has no obligation to engage in futile gestures as referenced in 42 U.S.C. §12188(A)(1) and 28 C.F.R. Subpart E

8. Defendant has discriminated against Plaintiff by the following actions and failures to act –

- a. Failing to make reasonable modifications in policies, practices, or procedures which are necessary to afford Plaintiff and others similarly situated accessibility to Defendant's place of public accommodation, thus violating 42 U.S.C. §12182(b)(2)(A)(ii) and 28 C.F.R. §36.302(a); and
- b. Failing to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, thus violating 42 U.S.C. §12182(b)(2)(A)(iii); and
- c. Failing to remove architectural barriers where such removal is readily achievable, thus violating 42 U.S.C. §12182(b)(2)(A)(iii), 28 CFR 36 and the 2010 Standards..

### **PARTIES**

9. Plaintiff is a disabled person and a committed individual to advance the time when places of public accommodations will be compliant with the ADA. Plaintiff resides in Casa Grande, Arizona.
10. Plaintiff's disability includes the amputation of the left leg below the knee. Plaintiff moves with the use of a wheelchair, walker and/or a prosthetic.
11. Defendant, RR HOTELS PHOENIX LLC, D/B/A Country Inn & Suites by Radisson Phoenix Airport, AZ owns and/or operates hotel at 4702 E. University Drive, Phoenix, AZ 85034 which is a public accommodation pursuant to 42

1 U.S.C. § 12181(7)(A) which offers public lodging services *See* 28 CFR §36.104  
2 and a listing of public accommodations in 42 U.S.C. §12181(7).

### 3 **JURISDICTION**

4  
5 12.District Court has jurisdiction over this case or controversy by virtue of 28  
6 U.S.C. §§ 28-1331 and 42 U.S.C. § 12188 and 28 U.S.C. § 1367.

7  
8 13.Plaintiff brings this action as a private attorney general who has been personally  
9 subjected to discrimination on the basis of his disability, *see* 42 U.S.C.12188  
10 and 28 CFR §36.501.

11 14.Venue is proper pursuant to 28 U.S.C. § 1391.

### 12 **STANDING TO SUE JURISDICTION**

13  
14 15. Plaintiff reviewed 3<sup>rd</sup> party and 1<sup>st</sup> party lodging websites to book an  
15 ambulatory and wheelchair accessible room. Plaintiff was denied equal  
16 opportunity to use and enjoyment of a critical public accommodation through  
17 Defendant's acts of discrimination and segregation alleged below.

18  
19 16.Plaintiff intends to book a room at the Defendant's hotel once Defendant has  
20 removed all accessibility barriers, including the ones not specifically referenced  
21 herein, and has fully complied with the ADA.

22  
23 17. Because of Defendant's denial of Plaintiff's use and enjoyment of a critical  
24 public accommodation through Defendant's acts of discrimination and  
25 segregation, he is deterred from visiting that accommodation by accessibility  
26 barriers and other violations of the ADA.  
27  
28

1 18. Defendant has denied Plaintiff -

2 a. The opportunity to participate in or benefit from the goods, services,  
3 facilities, privileges, advantages, or accommodations at its hotel.

4 b. The right to be included in the population at large who benefits from  
5 Defendant's hotel without being segregated because his disability.  
6

7 19. Plaintiff intends to book a room at Defendant's hotel in the future but he will  
8 likely suffer repeated injury unless and until the barriers of accessibility and  
9 ambulatory and wheelchair accessibility barriers have been removed.  
10

11 **CONTINUING JURISDICTION**  
12

13 20. ADA violations which form the subject matter of this Verified Complaint  
14 change frequently due to regular maintenance, remodels, repairs, and normal  
15 wear and tear.  
16

17 21. Defendant's ADA Violations are of the type that can reasonably be expected to  
18 start up again, allowing Defendant to be free to return to the old ways' after the  
19 threat of a lawsuit had passed.  
20

21 22. If one or more ADA violation are cured, Plaintiff alleges that they were cured  
22 and timed to anticipate the current lawsuit, and not as a good faith effort to  
23 comply with the ADA.  
24

25 23. To remedy the violations of 28 CFR 36.302(e), Defendant would be required  
26 not only to modify all 1<sup>st</sup> and 3<sup>rd</sup> party lodging websites, but would be required  
27 to do so truthfully and accurately.  
28

**COUNT ONE**

**Violation of Plaintiff's Civil Rights under the ADA**

24. Plaintiff realleges all allegations heretofore set forth.

25. By virtue of his disability, Plaintiff requires an ADA compliant lodging facility particularly applicable to his mobility, both ambulatory and wheelchair assisted.

26. On or about January 28, 2018 Plaintiff intended to visit Phoenix and spend the night there. He visited a 3<sup>rd</sup> party website [www.expedia.com](http://www.expedia.com) to book a room.

27. 3<sup>rd</sup> party website disclosed general availability and description of Defendant's hotel.

28. 3<sup>rd</sup> party website failed to identify and describe mobility related accessibility features and guest rooms offered through its reservations service in enough detail to reasonably permit Plaintiff to assess independently whether Defendant's hotel meets his accessibility needs.

29. 3<sup>rd</sup> party website failed to disclose the following accessibility features in enough detail to reasonably permit Plaintiff to assess independently whether Defendant's hotel and guest rooms meets his accessibility needs:

- a. Whether accessible routes comply with § 206 of the 2010 Standards; and
- b. Whether operable parts on accessible elements, accessible routes and accessible rooms comply with §§205 and 803 of the 2010 Standards; and

- c. Whether any accessible means of egress comply with §207 of the 2010 Standards.
- d. Whether parking spaces comply with §§208 and 502 of the 2010 Standards; and
- e. Whether passenger loading zones comply with §§209 and 503 of the 2010 Standards; and
- f. Whether any drinking fountains comply with §211 of the 2010 Standards; and
- g. Whether any kitchens, kitchenettes and sinks comply with §§212 and 804 of the 2010 Standards; and
- h. Whether toilet facilities and bathing facilities comply with §213 of the 2010 Standards; and
- i. Whether any washing machines and clothes dryers comply with §§214 and 611 of the 2010 Standards; and
- j. Whether accessible hotel rooms comply with §224 of the 2010 Standards; and
- k. Whether dining surfaces and work surfaces comply with §§226 and 902 of the 2010 Standards; and
- l. Whether sales and service elements comply with §227 of the 2010 Standards; and

- 1 m. Whether any saunas and steam rooms comply with §§241 and 612 of the
- 2 2010 Standards; and
- 3 n. Whether any swimming pools, wading pools and spas comply with
- 4 §§242 and 1009 of the 2010 Standards; and
- 5
- 6 o. Whether floor and ground surfaces comply with §302 of the 2010
- 7 Standards; and
- 8
- 9 p. Whether changes in level comply with §303 of the 2010 Standards; and
- 10 q. Whether turning spaces comply with § 304 of the 2010 Standards; and
- 11
- 12 r. Whether floor and ground spaces comply with §305 of the 2010
- 13 Standards; and
- 14
- 15 s. Whether knee and toes clearances comply with §306 of the 2010
- 16 Standards; and
- 17
- 18 t. Whether protruding objects comply with §307 of the 2010 Standards; and
- 19
- 20 u. Whether the reach ranges comply with §308 of the 2010 Standards; and
- 21
- 22 v. Whether the operating parts on accessible features comply with §309 of
- 23 the 2010 Standards; and
- 24
- 25 w. Whether accessible routes comply with §402 of the 2010 Standards; and
- 26
- 27 x. Whether walking surfaces comply with §403 of the 2010 Standards; and
- 28
- y. Whether doors, doorways and gates comply with §404 of the 2010
- Standards; and
- z. Whether ramps comply with § 405 of the 2010 Standards; and



- 1 aa. Whether curb ramps comply with §406 of the 2010 Standards; and  
2 bb. Whether any elevators comply with §407 of the 2010 Standards; and  
3 cc. Whether any platform lifts comply with §410 of the 2010 Standards; and  
4 dd. Whether any stairways comply with §504 of the 2010 Standards; and  
5 ee. Whether handrails on elements requiring handrails comply with §505 of  
6 the 2010 Standards; and  
7  
8 ff. Whether the plumbing facilities comply with Chapter 6 of the 2010  
9 Standards with respect to all the following subchapters of Chapter 6: §§  
10 602 (drinking fountains), 603 (toilets and bathing rooms), 604 (water  
11 closets and toilet compartments, 605 (urinals), 606 (lavatories and sinks),  
12 607 (bathtubs), 607 (shower compartments), 608 (grab bars), 610 (seats  
13 in bathtubs and shower compartments), and  
14  
15 gg. Whether service counters comply with 904 of the 2010 Standards.  
16

17  
18 30. Thereafter, Plaintiff consulted Defendant's 1<sup>st</sup> party website  
19 www.countryinns.com to determine the information unavailable from the third-  
20 party website.  
21

22 31. 1<sup>st</sup> party website states:  
23

24 **“Accessibility Features**

25 We understand that accessibility is important to our guests. Please contact the  
26 hotel to confirm if an accessible room will meet your needs or if you have other  
27 questions.

28 This hotel has accessible rooms that may include the following accessible features:

- Amenities Within Accessible Range to Reach
- Closed Caption Decoder
- Controls Operable Without Grasping or Twisting
- Lever Hardware
- Roll-In Shower
- Text Telephone (TTY/TDD/TT)
- Grab Bars Alongside Toilet
- Grab Bars by Tub
- Transfer Seat to Tub
- Audio and Visual Emergency Warning Devices
- Wider Guest Room and Bathroom Doorways
- Braille Elevators
- Wheelchair-Accessible Public Entrance”

32.1<sup>st</sup> party website failed to identify and describe mobility related accessibility features and guest rooms offered through its reservations service in enough detail to reasonably permit Plaintiff to assess independently whether Defendant’s hotel meets his accessibility needs.

33. Thereafter Plaintiff called Defendant’s hotel to inquire whether it was compliant with the ADA and suitable for Plaintiff’s accessibility needs.

34. Plaintiff spoke with hotel reservations clerk, Tracy. Plaintiff specifically inquired whether Defendant’s hotel was compliant with the Americans with Disabilities Act and compliant with the specific requirements of accessibility.

35. Reservations clerk responded that the hotel was compliant with the Americans with Disabilities Act.

36. Plaintiff subsequently visited the hotel to independently verify that it was, at least on the outside, suitable to accommodate his disability.

1 37. Plaintiff noted that the hotel was not compliant with the ADA and was replete  
2 with accessibility barriers in the details which include, without limitation, the  
3 following areas of non-compliance:

- 4 a. **208.3.1.** The accessible parking is not dispersed to all entrances.
- 5 b. **502.3.3.** Neither of the two access aisles are marked.
- 6 c. **502.6.** The accessible parking signs are lower than the required minimum of  
7 60 inches.
- 8 d. **303.2.** There is a change in level on an accessible route greater than 1/4 inch.
- 9 e. **307.5.** Protruding objects reduce the required clear width of an accessible  
10 route.
- 11 f. **308.2.1.** The pool gate handle is located at an improper reach range over 48  
12 inches high.
- 13 g. **309.4.** The secondary entrance on the eastern side of the hotel requires a  
14 twisting of the wrist motion to open the door.
- 15 h. **309.4.** The pool gate handle requires a twisting of the wrist motion to open  
16 the gate.
- 17 i. **403.3.** The accessible route to the east entrance has a walking surface with a  
18 cross slope steeper than 1:48 inches.
- 19 j. **405.2.** Multiple ramps along the front of the hotel have a running slope  
20 steeper than 1:12 inches.
- 21 k. **405.7.** Missing landings separating ramp runs.

1       l. **405.8.** The ramp leading to the rear entrance has a rise greater than 6 inches  
2       without handrails on one side and for most of the other.

3       m. **504.6.** The stairway on the east side of the hotel is missing a handrail on one  
4       side.

6       n. **505.10.3.** Multiple stairways are missing bottom handrail extensions; and

7       o. Other ADA violations to be discovered through a discovery process.

8  
9       38. As a result of the deficiencies described above, Plaintiff declined to book a room  
10      at the hotel.

11      39. The removal of accessibility barriers listed above is readily achievable.

12  
13      40. As a direct and proximate result of ADA Violations, Defendant's failure to  
14      remove accessibility barriers prevented Plaintiff from equal access to the  
15      Defendant's public accommodation.

16  
17      **WHEREFORE**, Plaintiff prays for all relief as follows:

18           A. Relief described in 42 U.S.C. §2000a – 3; and

19           B. Relief described in 42 U.S.C. § 12188(a) and (b) and, particularly -

20           C. Injunctive relief order to alter Defendant's place of public  
21           accommodation to make it readily accessible to and usable by ALL  
22           individuals with disabilities; and

23           D. Requiring the provision of an auxiliary aid or service, modification of a  
24           policy, or provision of alternative methods, to the extent required by  
25           Subchapter III of the ADA; and  
26  
27  
28

1 E. Equitable nominal damages in the amount of \$1.00; and

2 F. For costs, expenses and attorney's fees; and

3 G. All remedies provided for in 28 C.F.R. 36.501(a) and (b).

4  
5  
6 **COUNT TWO**  
7 Negligence

8 41.Plaintiff realleges all allegations heretofore set forth.

9 42.Defendant had a duty to Plaintiff to remove ADA accessibility barriers so that  
10 Plaintiff as a disabled individual would have full and equal access to the public  
11 accommodation.  
12

13 43.Defendant breached this duty.

14 44.Defendant is or should be aware that, historically, society has tended to isolate  
15 and segregate individuals with disabilities, and, despite some improvements,  
16 such forms of discrimination against individuals with disabilities continue to be  
17 a serious and pervasive social problem<sup>1</sup>.  
18  
19

20 45.Defendant knowingly and intentionally participated in this historical  
21 discrimination against Plaintiff, causing Plaintiff damage.

22 46.Discrimination against individuals with disabilities persists in the use and  
23 enjoyment of critical public accommodations<sup>2</sup>.  
24  
25

26  
27 <sup>1</sup> 42 U.S.C. § 12101(a)(2)

28 <sup>2</sup> 42 U.S.C. §12101(a)(3)

1 47. Defendant's knowing and intentional persistence in discrimination against  
2 Plaintiff is alleged, causing Plaintiff damage.

3 48. Individuals with disabilities, including Plaintiff, continually encounter various  
4 forms of discrimination, including outright intentional exclusion, the  
5 discriminatory effects of architectural, overprotective rules and policies, failure  
6 to make modifications to existing facilities and practices, exclusionary  
7 qualification standards and criteria, segregation, and relegation to lesser  
8 services, programs, activities, benefits, jobs, or other opportunities<sup>3</sup>.  
9

10 49. Defendant's knowing and intentional discrimination against Plaintiff reinforces  
11 above forms of discrimination, causing Plaintiff damage.  
12

13 50. Census data, national polls, and other studies have documented that people  
14 with disabilities, as a group, occupy an inferior status in our society, and are  
15 severely disadvantaged socially, vocationally, economically, and  
16 educationally<sup>4</sup>.  
17

18 51. Defendant's knowing and intentional discrimination has relegated Plaintiff to  
19 an inferior status in society, causing Plaintiff damage.  
20  
21  
22  
23  
24  
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27 <sup>3</sup> 42 U.S.C. §12101(a)(5)

28 <sup>4</sup> 42 U.S.C. §12101(a)(6)

1 52.The Nation’s proper goals regarding individuals with disabilities are to assure  
2 equality of opportunity, full participation, independent living, and economic  
3 self-sufficiency for such individuals<sup>5</sup>.  
4

5 53.Defendant’s knowing and intentional discrimination has worked counter to our  
6 Nation’s goals of equality, causing Plaintiff damage.  
7

8 54.Continued existence of unfair and unnecessary discrimination and prejudice  
9 denies people with disabilities the opportunity to compete on an equal basis and  
10 to pursue those opportunities for which our free society is justifiably famous,  
11 and costs the United States billions of dollars in unnecessary expenses resulting  
12 from dependency and nonproductivity<sup>6</sup>.  
13

14 55.Defendant’s knowing and intentional unfair and unnecessary discrimination  
15 against Plaintiff demonstrates Defendant’s knowing and intentional damage to  
16 Plaintiff.  
17

18 56.Defendant’s breach of duty caused Plaintiff damages including, without  
19 limitation, the feeling of segregation, discrimination, relegation to second class  
20 citizen status the pain, suffering and emotional damages inherent to  
21 discrimination and segregation and other damages to be proven at trial.  
22

23 57.By violating Plaintiff’s civil rights, Defendant engaged in intentional,  
24 aggravated and outrageous conduct.  
25

26  
27 <sup>5</sup> 42 U.S.C. §12101(a)(7)

28 <sup>6</sup> 42 U.S.C. §12101(a)(8)

1 58. The ADA has been the law of the land since 1991, but Defendant engaged in a  
2 conscious action of a reprehensible character, that is, Defendant denied Plaintiff  
3 his civil rights, and cause him damage by virtue of segregation, discrimination,  
4 relegation to second class citizen status the pain, suffering and emotional  
5 damages inherent to discrimination and segregation and other damages to be  
6 proven at trial  
7

8  
9 59. Defendant either intended to cause injury to Plaintiff or defendant consciously  
10 pursued a course of conduct knowing that it created a substantial risk of  
11 significant harm to Plaintiff.  
12

13 60. Defendant is liable to Plaintiff for punitive damages in an amount to be proven  
14 at trial sufficient, however, to deter this Defendant and others similarly situated  
15 from pursuing similar acts.  
16

17 **WHEREFORE**, Plaintiff prays for relief as follows:

18 A. For finding of negligence; and

19 B. For damages in an amount to be proven at trial; and

20 C. For punitive damages to be proven at trial; and

21 D. For such other and further relief as the Court may deem just and proper.  
22  
23

24 **COUNT THREE**  
25 Negligent Misrepresentation

26 61. Plaintiff realleges all allegations heretofore set forth.  
27  
28



1 62. Defendant failed to exercise reasonable care or competence in obtaining or  
2 communicating the information regarding ADA compliance to Plaintiff both on  
3 the websites and telephonically.  
4

5 63. Defendant hotel supplied false information to Plaintiff for guidance in  
6 Plaintiff's business transaction, to wit: the renting of a hotel room.  
7

8 64. Defendant's false statement was made in the course of Defendant's business in  
9 which Defendant has a pecuniary interest, to wit: renting of rooms.  
10

11 65. Plaintiff justifiably relied on Defendant's false information.  
12

13 66. Plaintiff has suffered pecuniary losses as a result of his reliance on Defendant's  
14 false information regarding ADA compliance, to wit: he spent time, effort and  
15 resources.  
16

17 67. Defendant either intended to cause injury to Plaintiff or defendant consciously  
18 pursued a course of conduct knowing that it created a substantial risk of  
19 significant harm to Plaintiff.  
20

21 68. Defendant is liable to Plaintiff for punitive damages in an amount to be proven  
22 at trial sufficient, however, to deter this Defendant and others similarly situated  
23 from pursuing similar acts.  
24

**WHEREFORE,** Plaintiff prays for relief as follows:  
25

26 A. For finding of negligent misrepresentation; and  
27

28 B. For damages in an amount to be proven at trial; and

C. For punitive damages to be proven at trial; and

1 D. For such other and further relief as the Court may deem just and proper.

2  
3 **COUNT FOUR**  
4 Failure to Disclose

5 69.Plaintiff realleges all allegations heretofore set forth.

6 70.Defendant was under a duty to Plaintiff to exercise reasonable care to disclose  
7 matters required to be disclosed pursuant to 28 CFR 36.302(e) as more fully  
8 alleged above.  
9

10 71.Defendant was under a duty to disclose matters to Plaintiff that Defendant knew  
11 were necessary to be disclosed to prevent Plaintiff to be misled by partial  
12 disclosures of ADA compliance as more fully alleged above.  
13

14 72.The compliance with the ADA is a fact basic to the transaction.  
15

16 73.Defendant failed to make the necessary disclosures.

17 74.As a direct consequence of Defendant's failure to disclose, Plaintiff visited the  
18 hotel, but did not book a room because of its non-compliance with the ADA.  
19

20 75.Plaintiff has been damaged by Defendant's non-disclosure.

21 76.Defendant either intended to cause injury to Plaintiff or defendant consciously  
22 pursued a course of conduct knowing that it created a substantial risk of  
23 significant harm to Plaintiff.  
24

25 77.Defendant is liable to Plaintiff for punitive damages in an amount to be proven  
26 at trial sufficient, however, to deter this Defendant and others similarly situated  
27 from pursuing similar acts.  
28

1 **WHEREFORE**, Plaintiff prays for relief as follows:

2 A. For finding of that Defendant failed to disclose information; and

3 B. For damages in an amount to be proven at trial; and

4 C. For punitive damages to be proven at trial; and

5 D. For such other and further relief as the Court may deem just and proper.

6  
7  
8 **COUNT FIVE**

9 Fraud

10 Common Law and Consumer

11 78.Plaintiff realleges all allegations heretofore set forth.

12 79.Defendant made a representation as alleged above.

13 80.The representation was material.

14 81.The representation was false.

15 82.Defendant knew that the representation was false or was ignorant to the truth or  
16 falsity thereof.

17 83.Defendant intended that Plaintiff rely on the false representation.

18 84.Plaintiff reasonably relied on the misrepresentation.

19 85.Plaintiff has a right to rely on the misrepresentation.

20 86.Plaintiff was consequently and proximately damaged by Defendant's  
21 misrepresentation.

22 87.Defendant's misrepresentation was made in connection with the sale or  
23 advertisement of merchandise with the intent that Plaintiff rely on it.  
24  
25  
26  
27  
28

1 88. Renting of hotel rooms is “merchandise” as this term is defined in A.R.S. §44-  
2 1521(5).

3 89. Plaintiff relied on the misrepresentation.

4 90. Plaintiff suffered an injury resulting from the false misrepresentation

5 91. Defendant either intended to cause injury to Plaintiff or defendant consciously  
6 pursued a course of conduct knowing that it created a substantial risk of  
7 significant harm to Plaintiff.  
8

9 92. Defendant is liable to Plaintiff for punitive damages in an amount to be proven  
10 at trial sufficient, however, to deter this Defendant and others similarly situated  
11 from pursuing similar acts.  
12

13 **WHEREFORE**, Plaintiff prays for relief as follows:

14 A. For finding of that Defendant failed to disclose information; and  
15

16 B. For damages in an amount to be proven at trial; and  
17

18 C. For punitive damages to be proven at trial; and  
19

20 D. For such other and further relief as the Court may deem just and proper.

21 **REQUEST FOR TRIAL BY JURY**

22 Plaintiff respectfully requests a trial by jury in issues triable by a jury.

23 RESPECTFULLY SUBMITTED this 29<sup>th</sup> day of January 2018.  
24

25 **STROJNIK, P.C.**

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Peter Strojnik, 6464  
28 Attorneys for Plaintiff

**VERIFICATION**

Plaintiff verifies that he has read the forgoing and that the factual allegations stated above are true and correct to the best of his knowledge, information and belief. Plaintiff makes this verification under the penalty of perjury.

/s/ Fernando Gastelum  
Authorized Electronically